



The Hatch Act: What Every Employee Needs to Know During the Upcoming Election Season

*ANA GALINDO-MARRONE, CHIEF
HATCH ACT UNIT
U.S. OFFICE OF SPECIAL COUNSEL*

Who Is Covered by the Hatch Act?

The Hatch Act has two categories of employees

Less Restricted

May actively participate in partisan political management and campaigns, subject to the prohibitions we are about to discuss

Further Restricted

Subject to additional restrictions regarding active participation in partisan political management and campaigns

Who Is Further Restricted?

Employees of certain intelligence or enforcement agencies and offices (except PAS)

- CIA
- NSA
- Defense Intelligence Agency
- National Geospatial-Intelligence Agency
- Office of the Director of National Intelligence
- National Security Council
- DOJ's Criminal and National Security Divisions
- FBI
- Secret Service
- IRS's Office of Criminal Investigation
- Federal Elections Commission
- Election Assistance Commission
- Merit Systems Protection Board
- Office of Special Counsel

Who Is Further Restricted?

Employees holding certain positions (in any agency)

- **Career Senior Executive Service (Career SES)**
- **Administrative Law Judges**
- **Contracts Appeals Board Members**
- **Administrative Appeals Judges**

All Employees May:

- Register and vote as they choose
- Display campaign signs at home
- Display a political bumper sticker on a personal vehicle
- Be members of political clubs or parties
- Be candidates for public office in nonpartisan elections
- Campaign for or against referendum questions, constitutional amendments, or municipal ordinances

All Employees (Not On Duty or In the Workplace) May:

- **Contribute money to political parties, campaigns, or partisan groups**
- **Attend political rallies, meetings, or fundraisers**
- **Sign nominating petitions**
- **Follow, like, or comment on the social media pages of a candidate for partisan office, political party , or partisan group**

Less Restricted Employees (Not On Duty or In the Workplace) May Also:

- Circulate nominating petitions
- Work as campaign volunteers
- Distribute campaign literature
- Organize campaign events
- Speak on behalf of a candidate
- Hold party office
- Serve as delegate to a party convention
- Organize party events
- Serve on a party committee

What is political activity?

Political Activity is any activity directed toward the success or failure of a partisan candidate, political party, or partisan political group.

What is not political activity?

Discussing legislation, ballot initiatives, and nonpartisan elections

(e.g., Obamacare, gun control measures, executive orders, school board candidates etc.)

Discussing issues

(e.g., abortion, immigration, Kavanaugh confirmation, Black Lives Matter, etc.)

Attending an issue march or rally

(e.g., March for Life, Women's March, March for Science, etc.)

KEY: Activity does not include showing support or opposition to a political party or candidate for partisan office.

On Duty/In the Workplace Prohibition

Employees may not engage in political activity while:

- On duty
including when teleworking or on official union time
- In a government room or building
including break rooms, conference rooms, gyms, cafeterias, and union offices
- Wearing an official uniform or insignia
- Using a government vehicle

On Duty/In the Workplace Prohibition

Examples

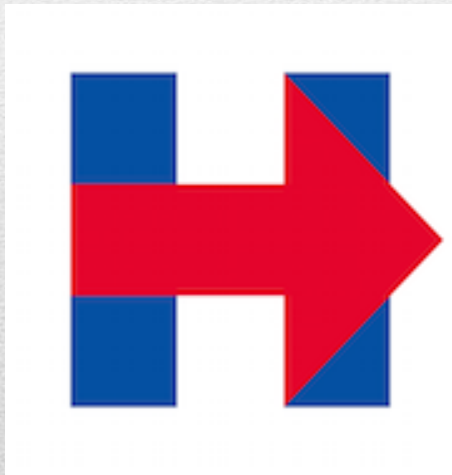
- Wearing buttons, t-shirts, hats, etc.
- Displaying screen savers, posters, candidate photographs, campaign materials, etc.
- Making online donations
- Emailing, texting, or using social media

But okay to display bumper sticker on a personal vehicle

On Duty/In the Workplace

Permitted or Prohibited?

May you display these logos in your office?



On Duty/In the Workplace

Permitted or Prohibited?

May you use these mugs while at work?



On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs at work?

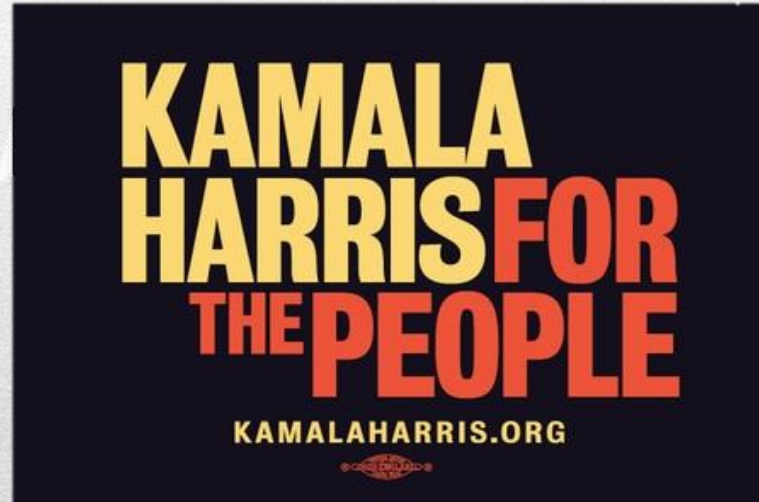


5 U.S.C. § 7324; 5 C.F.R. § 734.306

On Duty/In the Workplace

Permitted or Prohibited?

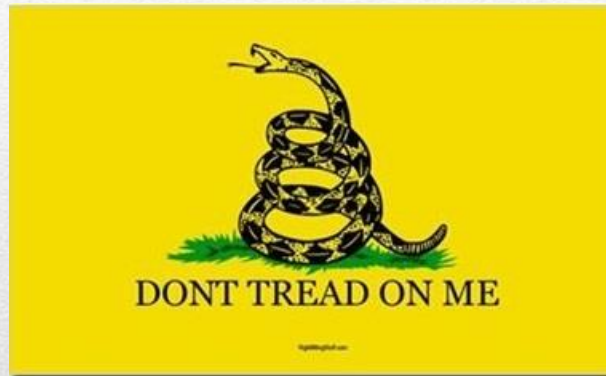
May you display these signs at work?



On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs at work?



16

On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs at work?



17

On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs/items at work?



18

On Duty/In the Workplace

Permitted or Prohibited?

May you wear or display these items at work?



On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs at work?



20

On Duty/Workplace Prohibition

Emailing, texting, blogging, or using social media for political activity is a violation even if:

- using a personal device or email account
- sharing or forwarding content authored by others
- sharing or forwarding to friends or like-minded coworkers

Prohibition includes union email activity if it meets the definition of political activity

24/7 Prohibition

Use of Official Authority

Employees may not use their official authority or influence to affect the outcome of an election

Examples:

- Involving subordinates
- Using one's official title or position
- Using agency resources, e.g., an official social media account

24/7 Prohibition

Fundraising

Employees may not solicit, accept, or receive political contributions at any time

Examples:

- Asking for donations by any means, e.g., by mail, email, or social media
- Inviting others to a fundraiser or hosting one
- Sharing or liking fundraising posts on social media

24/7 Prohibitions

Candidacy

Employees may not be candidates for public office in partisan elections

When Does Candidacy Start?

- Collecting signatures for nominating petitions
- Fundraising
- Announcing candidacy to the press or public
- Assembling a campaign committee
- Filing nominating petitions

24/7 Prohibitions

Candidacy

Employees are permitted to be candidates for:

- Public office in a nonpartisan election*

**A nonpartisan election can become partisan if the employee introduces partisan politics into the campaign*

- Party office, e.g., precinct committeeperson
- Local elections in specially designated localities, if running as an independent^o

^oYou should always check with your ethics office and/or OSC to determine if a local election qualifies

24/7 Prohibitions

Business Before Employing Office

Employees may not knowingly solicit or discourage the political activity of anyone with business pending before their employing office.

Business defined

- ongoing audit, investigation, or enforcement action
- application for a grant, contract, license, permit, ruling, compensation or certificate

Social Media Guidance (24/7)

May Not:

- Tweet, Retweet, Share, or Like a post or content that solicits political contributions
- Engage in political activity via social media while on duty or in the workplace (e.g., share, like, or retweet a post from a candidate or partisan group; or post/tweet a comment directed at the success or failure of a candidate or partisan group; or like, share, or follow the social media page of a candidate or partisan group)
- Use a social media account in your official capacity to engage in political activity
 - But including your official title or position on the profile of your personal social media page is okay

Further Restricted Employees May Not –

Actively Participate in Political Management or Political Campaigning (**Rule:** May Not Act in Concert With or on Behalf of a Political Party, Candidate for Partisan Office, or Partisan Group)

Examples of prohibited activities:

- Volunteering for a partisan campaign
- Distributing campaign materials or circulating nominating petitions
- Holding party office or serving on a party committee
- Organizing party events
- Serving as a party delegate
- Forwarding campaign or political party emails
- Linking to, sharing, or retweeting the social media pages or posts of a political party, partisan political group, or candidate for partisan political office

Penalties

The Merit Systems Protection Board may order:

- Removal
- Reduction in grade
- Debarment from federal employment for a period up to five years
- Suspension
- Reprimand
- Civil penalty up to \$1,000

Need Help?

Hatch Act Unit

Phone (800) 85-HATCH
(202) 804-7002

Email hatchact@osc.gov

OSC Speakers/Outreach

Phone 202-804-7000

OSC Website

www.osc.gov